

POLICY AND PROCEDURE MANUAL MONTANA CHEMICAL DEPENDENCY CENTER

Policy Subject: Sexual Harassment	
Policy Number: PRP 07	Standards/Statutes: ARM 37.27.120
Effective Date: 01/01/02	Page 1 of 4

PURPOSE: To define the term and outline guidelines for notification, investigation and disposition of complaints of sexual harassment.

POLICY: Sexual harassment or intimidation is prohibited against any employee whether committed by a co-worker, supervisor, subordinate, contractor or volunteer. Retaliation against any employee who has made a good faith report of alleged sexual harassment, testified, assisted or participated in the investigation of a report is prohibited and is also a violation of federal and state regulations prohibiting discrimination and will lead to disciplinary action against the offender. This policy is consistent with DPHHS Policy and adopted in compliance with the rules found in the MOM Policy, 3-0620. Violation of this policy will result in disciplinary action up to and including termination of employment.

PROCEDURE:

Definitions

- I. Sexual Harassment: any unwelcome sexual advance, request for favors, or other verbal, physical and/or visual contact of a sexual nature when:
 - A. Submission is made, either explicitly or implicitly, a term or condition of an individuals employment
 - B. Submission to, or rejection of, that conduct or communication, by an individual is used as a factor in decisions affecting that individuals employmentthe conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individuals employment, or of creating an intimidating, hostile or offensive work environment.
- II. Intimidating, hostile or offensive work environment is one which:

- A. Contains unwelcome sexually oriented jokes, innuendoes, obscenities, pictures, posters, or actions with a sexual connotation that makes an employee feel uncomfortable; or
- B. Any aggressive or harassing behavior that affects working, whether sexual in connotation or not, that is directed toward an employee based on gender.

III. Management, for purpose of this policy means:

- A. One who investigates allegations of sexual harassment and works with staff to resolve issues regarding alleged sexual harassment
- B. May include the immediate supervisor, the first level supervisor who is not involved in the alleged harassment or other management in the direct line of authority above these supervisors.

IV. Notice

- A. A verbal or written statement alleging harassment
 - 1. Indirect knowledge of an incident or behavior involving inappropriate conduct, whether the affected employee makes formal allegations or not.
- B. Reporting
- C. Persons who feel they are being sexually harassed or intimidated should immediately take the following steps:
- D. Report the incident as soon as possible to their immediate supervisor or the Personnel Specialist
- E. Keep a record of dates, times, places, witnesses and a description of each incident in as accurate detail as possible.
- F. Upon receipt of an alleged sexual harassment incident, the immediate supervisor or Personnel Specialist shall report the allegation to the facility Administrator. The Administrator shall initiate an investigation into the allegation or recommend another appropriate management representative to initiate the investigation. Human Resources of DPHHS shall also be notified of the investigation into the allegation.
- G. The investigation shall include a summary of the allegations, the respondent's summary and other facts that are obtained.
- H. A report of sexual harassment, its investigation and any actions taken relating to a specific employee or employees is confidential. Dissemination of confidential information shall be limited to persons with a *need-to-know* to conduct or participate in the investigation, or to implement a

resolution.

- I. The investigation may include interviews with the employee who made the complaint, with the alleged harasser, with other employees, including former employees with knowledge of the actions, with other persons outside the facility, if appropriate, and may include gathering other materials related to the complaint.
- V. Any actions taken by management to resolve the complaint shall be based on facts verified during the investigation. Actions may include disciplinary action up to and including termination of employment.
 - A. Other actions that may be taken may include, but are not limited to: educating the harasser about sexual harassment; counseling; increasing employee awareness about sexual harassment and its prevention; or providing the facility policy and procedure on sexual harassment.
 - B. Employees who may observe behavior or situations that they believe might be sexual harassment perpetrated on another should report their observations to their immediate supervisor utilizing the reporting methods outlined in Section A above.
- VI. Management is not obligated to investigate and respond to a report of alleged sexual harassment if the incident or action occurred more than three (3) years prior to the report.
 - A. The alleged employee will be allowed to review the investigative report and to provide a written response to the allegations.
 - B. Complaint Options
 - C. Nothing in this policy prohibits an employee from filing a complaint of sexual harassment with the U.S. Equal Employment Opportunity Commission or the Montana Human Rights Commission. An employee may concurrently file a complaint of unlawful discrimination with the Department (DPHHS) and the Human Rights Commission and/or the EEOC. The complaint must either be filed:
 - D. Within 180 days of the alleged incident, or;
 - E. Within 300 days of the alleged incident, if the employee initiates action to resolve the alleged sexual harassment in accordance with the Department or contract grievance procedure.
- VII. If disciplinary action is taken as a result of a report of sexual harassment, an employee may file a grievance under the grievance policy or through a grievance procedure available through a collective bargaining agreement.
- VIII. This policy shall be followed unless it conflicts with negotiated labor contracts that shall take precedence, to the extent applicable.

Revisions: Revision # 1, Rona R. McOmber, PIURM 12/2002

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Date